

Student Judicial Process

Tufts University Arts, Sciences & Engineering

August 2003

This 2003 booklet supersedes all prior versions.

The booklet can be found online at <http://studentservices.tufts.edu/dos>.

Student Judicial Process

Tufts University Arts, Sciences & Engineering

TABLE OF CONTENTS

Introduction	5
The Student Judicial Process	6
Choosing an Option	6
Beginning The Process	8
The Hearing Process	12
Advocates	15
Witnesses	16
Special Situations in Hearings	19
Appeals	21
University Disciplinary Actions	24
Some Possible Consequences for Various Disciplinary Violations	28
Some Possible Consequences for Academic Integrity Violations and Computer Resource Policy Violations	31
Campus Judiciaries	32

INTRODUCTION

University students are viewed as adults. Tufts, therefore, does not consider itself a surrogate parent. All members of the Tufts community are expected to conduct themselves in a manner compatible with the university's role as an educational institution and with their role as adult members of the community. The university's Code of Conduct may be found online through the Dean of Students web page.

The policies of the university are designed to protect your ability to pursue an education and social life in a reasonable environment. Mechanisms are available if you have been subjected to behavior of other members of the Tufts community that you believe violates the community standards set forth online in *The Pachyderm* and *Academic Integrity@Tufts*. In some cases where students or groups engage in off campus behavior which threatens Tufts' reputation, or which impacts the safety of the Tufts community, the judiciaries may hear complaints from non-Tufts persons.

This booklet describes the student judicial process. It addresses all concerns or allegations about the behavior of undergraduate or graduate students in the College of Arts, Sciences and Engineering, including academic integrity and computer ethics. This booklet is not a contract. The information and procedures set forth herein are current as of the date of the booklet's publication and supersedes any prior versions. They are subject to change at any time. For this reason questions regarding the currency or accuracy of any of the material in this booklet should be referred to the Dean of Students Office and the website <http://studentservices.tufts.edu/dos>.

The Pachyderm and Academic Integrity@Tufts, which can be found online through the Dean of Students web page, contain important information about the behavioral standards and expectations for all students in the university community. Be sure to familiarize yourself with their contents.

Issues concerning the behavior of staff members should be raised with the supervisor of the individual. Issues regarding the faculty should be raised with the chairperson of the department in which the faculty member teaches, or with the Academic Deans of the college. The Dean of Students, Counseling Center Staff Members, faculty advisors, and academic deans are all available for consultation in these situations.

Allegations involving sexual harassment or sexually inappropriate behavior by a staff member or faculty member are addressed by the Office of Equal Opportunity, the Director of which serves as the university's coordinator for Title IX, or by one of the persons listed in the pamphlet, published by the Office of Equal Opportunity, on sexual harassment.

THE STUDENT JUDICIAL PROCESS

Depending upon the nature of a complaint or concern, reports of inappropriate student or student organization behavior may be brought to:

- ▶ Members of the Residential Staff
- ▶ The Residential Life Office
- ▶ The TCU Judiciary
- ▶ The Inter-Greek Council Judiciary
- ▶ The Dean of Students
- ▶ The Judicial Affairs Officer in the Dean of Students Office
- ▶ The Committee on Student Life
- ▶ The Committee on Fraternities and Sororities
- ▶ The University Police

Note: Reports may be brought to other campus resources such as the Office of Equal Opportunity and Affirmative Action (the campus Title IX Coordinator). Reports may also be brought to off-campus resources, such as the local police, the courts of the Commonwealth, or the Office of Civil Rights.

You should consider each option — its advantages and disadvantages should be explored. Discussing a situation with any of these resources does not obligate you to initiate a complaint or disciplinary process.

CHOOSING AN OPTION

- ▶ Resolution directly with the other party
- ▶ Resolution by the decision of a university official
- ▶ Facilitated conversations or confrontations
- ▶ Mediation
- ▶ Arbitration
- ▶ A university hearing
- ▶ The court system: civil or criminal

More than two hundred complaints are filed in the student judicial process each year. Only a small number of these cases reach a hearing. The majority is

resolved either through other mechanisms such as alternative dispute resolution, settled through conversation, or is resolved by appropriate university officials because there is no dispute between the parties about the facts involved.

A broad variety of complaints are submitted. Some complaints are as serious as acquaintance rape, assault, and theft. Others are minor by comparison, involving disagreements between individuals who may have once been friends. All those bringing complaints are informed about their options.

Whether a student chooses a university option or the court system, or both, is entirely the decision of the student. Each option offers advantages and disadvantages.

Mediation is the only judicial mechanism in which both parties can directly exert control over the outcome of the dispute. In mediation, the process does not attempt to prove an individual's responsibility or a violation. Instead, it seeks a resolution that both parties can accept. This will be sufficient for some individuals and appropriate for some situations.

A hearing may result in holding another individual or group of individuals accountable for his, her, or their actions, and achieving a satisfactory outcome. The university process is usually faster, less costly, and more civil than the court system. Of the complaints that reach the hearing process, approximately half result in findings of a violation. The university cannot impose criminal sanctions even when a violation has been determined.

The University Police may be consulted for information about the procedure to be followed in pursuing criminal action. Court involvement does not normally replace or postpone university disciplinary action. This means that it is possible for a university and a court proceeding to occur simultaneously, and to be considered separate processes even though they may deal with a single incident.

The arbitration process is similar to mediation in that it seeks to find a solution acceptable to both parties. It typically addresses allegations where disciplinary action would not be appropriate, but rather financial or other contractual disputes.

You may not request a resource person to recommend or to advise which option is best for you; only you may make that decision.

BEGINNING THE PROCESS

A complaint may be initiated against students enrolled at Tufts by another individual student, a group of students, members of the faculty or administration, a student organization, or in limited cases, by those outside the Tufts community. Note that complaints may be brought by officials of the university or an inquiry hearing convened when there is evidence of a possible violation, even in the absence of an impacted person or group wishing to go forward with a complaint.

Resolution through mediation or hearings begins with the filing of a written complaint with the Judicial Affairs Officer. However, conflict resolution through arbitration, facilitated conversations or confrontations, and community conversations do not require a written complaint.

Some complaints raise issues which are not violations of community standards. In these situations the Dean of Students or Judicial Affairs Officer may decide not to proceed with the complaint.

Police Documents

An incident report of the university police is not generally available to students or to the public.

Witness statements given to the police are generally made available to the individuals who wrote and signed them and may be introduced at a hearing in their entirety. Police observations that are not available in document form may be addressed by asking that the officer involved be present at the hearing as a witness. The Dean's Office will be helpful in arranging this.

Time Limitations on Complaints

The student judicial process is limited to considering charges against students currently enrolled at the university or those on a leave who may return. A party who wishes to make a complaint about an incident must initiate the complaint within one year of the date of the incident. The university, at its discretion, may conduct disciplinary proceedings in relation to conduct that occurred outside of the one-year period when special circumstances warrant, including but not limited to cases where the alleged behavior suggests that there could be continuing danger to others in the community.

Note: In order to provide sufficient time to resolve cases prior to the end of each semester, the following restriction applies to the one year limitation:

All complaints must be filed with the Judicial Affairs Officer in the Dean of

Students Office by the first day of April or December each semester, or within two weeks of the incident which is the subject of the complaint, whichever is later. A party who does not submit a complaint by December 1 (for incidents occurring in the Fall and Summer semesters) or April 1 (for incidents occurring in the Spring semester), or within two weeks of an incident as described above, has the option of submitting the complaint in the subsequent semester only if the one-year period has not passed, provided the responding party is still enrolled at Tufts. Those considering bringing a complaint should anticipate that a delay in doing so may mean that evidence and witnesses will be unavailable, possibly making the complaint difficult to fully explore.

Complaint and Response Forms

A party making a complaint will be asked to complete a complaint form describing fully the details of the incident.

An individual or group against whom a complaint has been filed will be asked to complete a response form within *forty-eight hours* of being presented with the complaint. If no response is filed, action may be taken by the appropriate university administrators in lieu of further process. Requests for additional time to respond to a complaint must be made in writing to the Judicial Affairs Officer before the forty-eight hour deadline has expired.

Complaint and response forms will be made available to the parties and, in the event of a hearing, to the panel members.

Knowingly filing a false complaint or report of a crime is a violation in itself.

The Dean of Students or Judicial Affairs Officer may require the parties to submit additional explanations and evidence supporting their positions in order to determine whether or not a complaint will move to a judicial panel for a hearing.

The Mediation Process

The Judicial Affairs Officer or the Dean of Students and members of the Residential Staff are prepared to mediate between parties in an attempt to resolve the identified issues. This approach requires that both parties desire to achieve a negotiated resolution and are willing to waive their rights to a disciplinary hearing.

Note: Mediation may not be appropriate in cases where the issue involves the behavior of an individual who may pose harm or danger to others in the community.

The following procedure will be used for mediation:

- ▶ After reading the respondent's statement, the complaining party will provide, either verbally or in writing, a proposal for resolving the charges.
- ▶ The mediator will discuss the proposal with the responding party and present any other counter proposals for consideration.
- ▶ The mediator, at his/her discretion and with the agreement of the parties, may bring the parties together for a joint discussion.
- ▶ Mediation must conclude within one week prior to the scheduled time of the hearing.
- ▶ If mediation is not successful, the scheduled hearing will proceed or the complaint must be withdrawn.
- ▶ A resolution can include disciplinary action and any other outcome that may result from a hearing process, and is binding on the parties.

No mediation may change or deviate from established university policies or practices and the university reserves the right to alter the parties' agreement to ensure compliance and enforcement.

A resolution reached through mediation is final and not subject to appeal.

A violation of the resolution or disregard of its terms may result in new disciplinary actions as indicated in the signed agreement. In the event that a resolution is violated and the agreement did not specify a resulting outcome, the Dean of Students Office will determine whether to call a hearing to address the original charges and/or to take disciplinary action for the violation. A subsequent offense unrelated to the original dispute may also result in additional disciplinary action.

The outcome of mediated resolutions of complaints will be subject to the same regulations regarding public record and confidentiality as complaints resolved through the hearing process.

The Arbitration Process

Alternative dispute resolution offers the option of arbitration. Arbitration is similar to mediation but attempts to resolve disputes where a financial or other remedy is sought. The arbitration process does not require either party to file a written complaint – but the arbiter may ask for written documentation or written statements of position as part of the process. Consult the Dean of Students Office for details.

Action Without a Hearing

If the responding party, after receiving notice of the complaint, does not deny the allegations or, if the evidence is indisputable, a sanction may be imposed without a hearing. This sanction may be appealed in the same manner as a sanction resulting from a disciplinary hearing.

In some cases, a student may enter into an agreement with the Judicial Affairs Officer to accept responsibility and a sanction, which is not subject to appeal.

Admissions, court convictions on felony charges, or pleading "sufficient facts" in a court felony proceeding, will result in university action without university proceedings. Admissions, court convictions on misdemeanor charges, or pleading "sufficient facts" in a court misdemeanor proceeding may result in university action without university proceedings.

Students serving probation in the criminal court system are not eligible to be enrolled at Tufts, or transfer credits for courses taken elsewhere during the probation.

Action Prior To a Final Determination

Unless a party is reasonably believed to pose a physical threat to others in the community or when warranted by other special circumstances, no disciplinary action will be imposed, including any possible appeal. However, additional violations during the appeal process may be considered for further disciplinary action. Due to the awkwardness of continued contact between complaining and responding parties, the university may require a party to avoid contact with the other.

THE HEARING PROCESS

The procedures followed by the Judiciaries do not attempt to create a courtroom environment. The proceedings are informal and provide an opportunity for evidence to be considered by the panel, and, whenever possible, to give the parties an opportunity to confront the evidence. The judiciary body to hear the complaint is determined by the nature of the charges in the complaint. (Please refer to the section later in this booklet on Campus Judiciaries)

Convener

The individual convening the hearing may be the Chair of the judiciary, the Judicial Affairs Officer or another designee of the Dean of Students.

Before a hearing is scheduled, university officials may meet with the parties involved in an effort to narrow the areas of fact that are in dispute. When appropriate, the parties may agree to a statement of facts, which may be submitted to a judiciary panel for consideration.

Hearing date

A date for a hearing to consider a complaint will be chosen within ten days after a party has responded to a complaint. The judiciaries may consider University holidays, panel availability or other factors in choosing a hearing date. It is often impossible to avoid time conflicts with other university activities. The Judicial Affairs Officer will provide notice of students' involvement in a disciplinary process, but a hearing will not be postponed due to such conflicts. Once the date for a hearing has been chosen, there will be no postponement unless either party involved in the case or their advocate is faced with an emergency or university personnel has an unavoidable conflict. Rescheduling of the hearing after a conflict will be at the discretion of the Judicial Affairs Officer or the appropriate judiciary. No postponement will be granted for witness conflicts. Efforts will be made to avoid scheduling a hearing during reading and exam periods.

Panelists

Those serving as panelists on the various judiciaries may be students, faculty members, or staff members of the university. The panelists are informed about the issues involved, the standards used, and the fair process provided to the parties.

Impartial Panel

A party has a right to a fair and impartial panel. The fact that a panelist has taught or is teaching a class in which one of the parties is involved or a panelist has been or is in a class with a party is not grounds for disqualification of the panelist. Normally, the names of panelists who will consider a complaint will be given to the parties five days prior to the hearing and a panelist will be replaced if one of the parties in the case is able to demonstrate to the convener of the hearing, at least three days before the hearing, that the panelist is not in a position to be objective. Note that in some cases, the judiciary panel or the convener will judge whether a panelist whose objectivity is questioned should remain on the panel.

Open or Closed Hearings

Disciplinary hearings are usually open to the Tufts community and campus media. Outside media are not allowed to attend. A party may request in writing (48 hours prior to the hearing) that the hearing be closed to the Tufts community and campus media, in which case only the parties (and their witnesses, advocates, and parents) and university counsel/designee may be present. No hearing may be electronically transcribed or recorded on tape.

Note: Parents or guardians of parties are welcome to be present at disciplinary hearings unless a student who is an independent requests otherwise.

Notification to Tufts Community

Disciplinary hearings are a matter of Tufts community public record. Campus media may describe the nature and outcome of disciplinary situations, but may not name the individuals involved. The convener will provide a summary of the circumstances and findings of the case for reporting, in the event of a closed hearing.

The Order of Events for Hearings

In general, hearings will follow this order:

- ▶ Opening statement of the complaining party (limited to five minutes)
- ▶ Opening statement of the responding party (limited to five minutes)
- ▶ Questioning of the parties by the panel
- ▶ Questioning of the complaining party's witnesses first by the panel, then by the complaining party, then the responding party
- ▶ Questioning of the responding party's witnesses first by the panel, then by the responding party, then the complaining party
- ▶ Questioning by the complaining party of the responding party
- ▶ Questioning by the responding party of the complaining party
- ▶ Final questioning by the panel
- ▶ Closing statement of the responding party or an advocate (limited to ten minutes)
- ▶ Closing statement of the complaining party or an advocate (limited to ten minutes).

Although parties are not asked to swear an oath, all written and oral participation must be authentic and truthful. Any fabrication or tampering with evidence will be cause for disciplinary action to be taken.

If either party is reluctant to ask questions of the other or of witnesses, he or she may submit a written list of questions that, if appropriate, will be read by the convener of the hearing.

Note that a party or witness will have the right to refrain from responding to particular questions. However, the panel will determine whether a violation has occurred based on the testimony and evidence available.

Not every procedural issue is addressed here and the convener may rely upon past practice in determining how an issue will be handled. Before the hearing begins, address questions to the Judicial Affairs Officer concerning how issues not covered in this booklet may be handled.

There may be circumstances where the convener will change the order of events, allow witnesses to be taken out of order, or allow additional witnesses to be called.

Prior to the panel going into executive session, the convener will hand a sealed envelope to the panel. The envelope contains a piece of paper that indicates whether the responding party has any prior disciplinary record. The panel opens the envelope only if they have determined that a violation has occurred.

DELIBERATIONS/BURDEN OF PROOF

Following the presentation of evidence, the panel will go into an executive session (when possible, immediately following the proceedings). The primary task of the panel will be to determine whether the allegation has been substantiated and a violation has occurred. This judgment is made on the basis of a preponderance of the evidence available. A majority vote of the panelists is necessary. The complaining party has the burden of proof. For example, for a Dean of Students panel to find a party in violation, at least three panel members have to be convinced that it is more likely than not that the incident or circumstances occurred the way the complaining party states it did, and that the incident or circumstances violated University rules, regulations, or standards.

If a violation is determined, the panel will assign a consequence (or recommend a consequence in the case of Dean of Students Judiciaries). The convener of the hearing will promptly communicate the outcome of the hearing to both parties.

ADVOCATES

A party may choose to work with an advocate. An advocate may be an attorney, but individuals frequently ask friends, parents or faculty members to work with them.

The Role of the Advocate

The participation of advocates in a hearing is limited to preparing the party for the hearing and a ten-minute closing statement at the end of the process. The advocate will not provide coaching during the hearing, question witnesses or address the panel. Within reason, the convener of the hearing may provide breaks during which time the advocate may provide additional assistance to the party.

The Selection of an Advocate

The university process does not require or necessitate the selection of an advocate, and the university does not provide advocates for any party involved in disciplinary proceedings. A party typically makes decisions about the need for and selection of an advocate based on the seriousness of the allegation involved. Attorneys are particularly helpful in situations where action in the court system is a possibility.

The Legal Aid Society in both Cambridge and Boston or, when appropriate, the Boston Area Rape Crisis Center and the Victim Witness Service Bureau in the Middlesex County Courthouse can sometimes be helpful in these situations.

The university makes no representations concerning the skills, knowledge, or effectiveness of any advocate, but the Dean's Office will try to be helpful in identifying those willing to serve as advocates. Some university officials may be willing to work with a party in the preparation of a case or in the mediation process. However, because of their roles and/or involvement with the individuals who typically make up hearing panels, they are not eligible to serve as advocates at hearings. Some of these individuals include the chaplains, staff of the Counseling Center, deans and vice presidents, police officers and the directors of student life departments and programs.

Notice of Intent to Have an Advocate

A party who intends to have an advocate at the hearing must notify, in writing, the Judicial Affairs Officer or Dean of Students of the identity (name, relationship to the student, whether the advocate has had any legal training and the nature of that training, address and telephone number) of the advocate seven

days before the hearing. Each party will be notified by the Judicial Affairs Officer or Dean or Students of the identity of the other party's advocate.

WITNESSES

Both parties are entitled to present witnesses, including those who witnessed the incident, character witnesses and those who wish to address the impact of the incident. The questioning of witnesses will comply with state court rules only to the extent that it is practical in the university setting. Tufts recognizes that the parties are not attorneys. However, witnesses who testify about the incident will be asked to respond to what he or she has directly observed, heard or done and not what the witness believes has happened. Each party may have two character witnesses.

Each party should arrange for the presence and participation of their witnesses. If a critical witness is reluctant to appear, the Dean's Office will attempt to arrange for the participation of the individual if he or she is a student, upon request by a party three days before the hearing. University officials and panel members may also call witnesses who are believed to have information useful to the hearing.

Both parties will have an opportunity to ask questions of witnesses and of each other. If either party is reluctant to ask questions of witnesses, he or she may submit a written list of questions that will be read by the convener of the hearing (if appropriate).

In cases involving student organizations, the organization will be asked to name a spokesperson. Questions of witnesses will be asked only by the spokesperson named.

WRITTEN STATEMENTS

Statements written and signed by students as part of the police investigation by the university police are given to the parties and the panel prior to the hearing. Special circumstances may warrant an exception to this policy.

Witnesses are normally required to be present at hearings so that they may respond to questions. Under rare circumstances, written witness statements may be admissible at the discretion of the convener, and under certain procedural rules.

COUNSELING RECORDS, PERSONAL DOCUMENTS AND OTHER EVIDENCE

The university will not require any student to release his or her counseling records to the other party or panel as part of the hearing process. Nor will the university require a counselor to participate in a hearing.

On the other hand, a party involved in a hearing may wish to testify about information contained in, or to introduce as evidence, his or her own counseling records or other personal documents, including journals, diaries, or even letters. If a party wishes to introduce these materials, or to testify about information contained in them, the entire original, unedited, unabridged record or document must be given to the convener five days prior to the beginning of the hearing. The convener will make the materials available to the opposing party (and his or her advocate) prior to the beginning of the hearing. The opposing party and advocate are responsible for maintaining the confidentiality of the materials.

If the opposing party identifies information in the records or documents that is inconsistent or contradictory to the allegations made or the testimony offered, the convener will provide an opportunity for the opposing party to raise these issues to the panel, and to ask questions concerning the material. The opposing party may not release or make public any other information contained in the record or documents.

In cases where the evidence is not available within this time period, the convener of the hearing will make a decision concerning whether the documents may be provided to the panel. The judiciary will make the decision as to whether or not any particular document is necessary to be admitted as evidence.

VERIFICATION OF PROFESSIONAL SERVICES SOUGHT

In the absence of actual records or the presence of a medical professional as a witness, a party may testify to the fact that he or she sought medical, mental health, or other professional services as a result of the incident in the complaint. The party must provide verification of the dates, times and person providing the services. The verification may not include details of the meeting. In testifying, the party will be limited to stating that the service was sought. No characterization of the professional's judgment will be allowed.

SPECIAL SITUATIONS IN HEARINGS REGARDING SEXUAL ASSAULT CASES

Complaints Regarding Sexual Assault

Complaints regarding sexual assault are heard under the same set of procedures as other cases.

The following are university policies that apply specifically to cases involving alleged sexual assault:

Testimony about Prior Sexual Conduct

The university applies some elements of the Massachusetts Rape Shield Statute concerning the way evidence about prior sexual conduct is normally handled. Usually no questions, testimony, or evidence about the sexual activity of a complaining or responding party with anyone beside the other party in the case may be introduced. However, if a party introduces information about his/her own sexual activity with someone besides the other party in the case, questions can then be asked about that relationship.

In rare cases, if a party can demonstrate that the opposing party has reason to lie about the allegations made, testimony about prior sexual conduct may be allowed. For example, there may be a pre-existing condition or factor that makes it advantageous for the complaining party to have others believe that he or she had been an unwilling participant in the sexual encounter.

Any request for testimony about prior sexual conduct must be made at least five days prior to the hearing if the evidence is available to the party. If the exception does not become evident until during the hearing, the party requesting the testimony shall request to speak to the convener in private. The convener will then decide whether the testimony will be allowed. In all cases where there is a request, the requesting party may not mention the circumstances or reason for the request at the hearing unless the hearing convener has first allowed the testimony. It should be understood that allowance of testimony about prior sexual conduct is rare.

Fresh Complaint

In sexual assault cases, witnesses are permitted to provide testimony about conversations they had with the complaining party about the incident, even though the witness did not observe the incident directly. Tufts allows this testimony as "fresh complaint" testimony. However, there are certain restrictions on this type of testimony. First, fresh complaint witnesses are allowed only if

the conversation between the complaining party and the witness took place within one month of the date of the incident. Second, a maximum of two fresh complaint witnesses is allowed.

Note: As in all cases, if either party is reluctant to ask questions of the other or of witnesses, he or she may submit a written list of questions that, if appropriate, will be read by the convener of the hearing.

APPEALS

Filing an Appeal

Both parties are entitled to an appeal of a disciplinary decision. The appeal, including the basis of the appeal, must be filed in writing within ten days of the notification of the disciplinary decision. The appeal must specifically state the basis for the appeal (noted below) and the information/evidence in support of the appeal. In exceptional circumstances, upon written request to the chair of the appeal body, an extension may be given to provide the information or evidence in support of the appeal. In some situations where action has been taken by university officials without a hearing, the party shall have the right to appeal only the penalties assigned. In such cases, the initial decision of university officials is considered the "hearing" of the case.

An appeal of a disciplinary decision, regardless of which judiciary or university official issued the decision, must fall into one of the following categories:

For the responding party:

- ▶ Denial of fair process
- ▶ New evidence
- ▶ Severity of the consequence

For the complaining party:

- ▶ Denial of fair process
- ▶ New evidence

It is up to the appeal body to determine whether the appeal statement clearly identifies and explains one or more of the above reasons for the appeal. In the absence of such demonstration, the appeal will be denied. The appeal is not an opportunity to argue that the initial disciplinary decision was wrong. The appeal is not a new hearing.

The documents provided to the appeal body will include: the initial complaint and response forms, the outcome letter from the University Judicial Affairs

Officer or judicial board, and the appeal letter. Other documents may be provided to the appeal body for review.

Denial of fair process The question before the appeal body is whether or not the process used by the judiciary provides an opportunity for the case to be considered fairly. There are some cases where a deviation or change from the general procedures outlined in the Judicial Process will have occurred but the deviation or change will not have affected the outcome of the hearing. In such cases, there will not be a denial of fair process. Only the judiciary, not the other party, will respond before the appeal body to the issues raised in the appeal.

If the appeal body determines that there was not an opportunity for fair process in the hearing, the decision of the judiciary will be vacated and a new hearing will occur before a new judiciary. The appeal body does not hear the complaint.

New evidence Occasionally, evidence becomes available after the judiciary hears and decides a case. When such evidence could have affected the outcome of the hearing before the judiciary, the appeal body may vacate the judiciary decision and have the same judiciary hear the new evidence and issue another decision. The party against whom the evidence is being introduced will be able to argue before the appeal body that the evidence is not new and the evidence could not have affected the outcome of the hearing.

Severity of the consequence The responding party may use this basis for appeal. The responding party will only be able to argue that, given the finding, the consequence assigned is inconsistent with the values and practices of the university community. In this type of appeal, some or all representatives of the original panel (or the decision-maker in the absence of a hearing) will be present to argue the rationale for the consequence assigned.

Dismissal of an Appeal

Some appeals are not filed within the stated time limits or do not set forth the basis for the appeal or the information/evidence to support an appeal. The appeal body or its convener may decide not to accept an appeal not in compliance with the requirements noted above or may take other action to bring the appeal into compliance.

Order of Events for Appeals to the Committee on Student Life (CSL)

For appeals to CSL, the procedure will be:

- ▶ Opening statement of the appealing party (limited to five minutes)
- ▶ Opening statement of the responding party (limited to five minutes)
- ▶ Questioning of the parties by the panel
- ▶ Questioning of the parties by each other
- ▶ Closing statements of the responding party or advocate (limited to ten minutes)
- ▶ Closing statements of the appealing party or advocate (limited to ten minutes)

There may be circumstances where the convener will change the order of events, allow witnesses to be taken out of order or allow additional witnesses to be called.

During the appeal process, the parties must limit themselves to the basis of appeal and responses to the basis. An appeal may be ended or dismissed if any party brings into the process information or arguments not within the accepted basis for appeal. Following the closing statements, the appeal body will go into executive session. The decision will be made by the vote required of the appeal body.

Procedures for Appeals Other Than CSL

Mechanisms differ but all begin with a letter stating one of the three bases listed above. The same submission deadline applies.

Open or Closed Appeal Hearings

Requests for closed hearings must be made to the Chair of the appeal body, in writing, forty-eight hours before the scheduled hearing.

Advocate

The same rules and procedures apply as described previously in this booklet.

Outcome of an Appeal

A decision on the appeal will be made by a majority vote, if applicable. A judicial board or university official hearing the appeal may modify or leave unchanged a disciplinary decision. If a change is seen as appropriate, it may result in a new consequence that is less severe, more severe, or simply different, possibly including new elements such as community service, restitution, etc.

UNIVERSITY DISCIPLINARY ACTIONS

Fines, work penalties, and other consequences may result from violations of university policies. Some violations may result in serious disciplinary action, even for a first violation. For example, assault or threats; acquaintance rape; harassment (whether physical or verbal) because of race, gender, sexual orientation, religion or disability; academic dishonesty; theft; hazing; and distribution of controlled or illegal substances are among the violations which may result in suspension or expulsion from the university, even for a first offense.

Relevant circumstances, provocations, motivations, and previous disciplinary involvement are examples of factors that may be considered by judiciaries and university officials in deciding disciplinary cases.

Note: The university judiciaries have the right to impose any sanctions, depending on the seriousness of the offense.

Residential disciplinary actions may include the following:

Community Service

Community service assignments may be very specific in nature and for any number of hours. If the service requirement is not specified, the work may be done on campus within the residence halls as designated by the Coordinator of Community Standards & Judicial Processes or the Residential Judiciary Board. The work must be unsalaried.

Note: Failure to complete community service assignments in the designated time will result in additional residential disciplinary action.

Residential Probation

Residential probation is a status that may be imposed for a specified time in response to behavior that indicates an unwillingness or inability to conduct oneself according to the established community standards. It is a formal indication that one's residency is in jeopardy unless there is a significant change in this behavior. Failure to comply with the terms of the probation, or additional violation of community standards during the probationary period, will result in more serious judicial action.

Deferred Residential Separation

A party may be placed on official notice that a subsequent violation within the residence system may result in the loss of eligibility to continue to reside in university housing. This notice does not go on a student's university transcript, but parents are informed of the Deferred Residential Separation status. Note

that the university's residency requirement is not waived in these circumstances, except at the discretion of the Dean of Students. Students who lose eligibility to continue in residence will have to fulfill the requirement in a subsequent semester or year.

Separation from University Housing

A party may be required to leave university housing for violation of certain university regulations. Such separation does not become part of a party's university transcript. Separation from housing may be for any specified period, but usually lasts for a minimum of one full semester. Parents are informed of this consequence.

University disciplinary actions may include the following:

Community Service/Warning

Community service assignments may be very specific in nature and for any number of hours. If the service requirement is not specified, the work may be done for any public service agency in the cities of Somerville, Medford, or the Greater Boston area. The work must be unsalaried. Options frequently pursued include homeless shelters, soup kitchens, neighborhood improvement programs, school volunteerism, blood donation drives, etc. The Leonard Carmichael Society can often be of help in identifying volunteer opportunities.

Note: Failure to complete community service assignments in the designated time will result in additional disciplinary action.

Disciplinary Probation I

Disciplinary Probation I is a warning that one's behavior has breached the standards of the community. Subsequent violations during the period of probation are likely to lead to more serious disciplinary action. No notation is entered on a student's university transcript for Disciplinary Probation I. Students on Probation I are still considered to be in good standing at the university, but eligibility to participate in certain programs may be affected. Some of these activities include pledging or joining a fraternity or sorority and becoming a member of residential staff.

Disciplinary Probation II

Disciplinary Probation II indicates that any further disciplinary infractions will not be tolerated, and will usually result in immediate suspension from the university. The probation may last for any specified period. A record of Probation II is annotated on a student's university transcript for a period of four years from the date of the incident that caused the action. Students on

Probation II are no longer considered to be in good standing at the university, and are ineligible to participate in several other university activities, unless an exception is made by the Dean of Students or the Judicial Affairs Officer. Some of these activities include participation in study abroad programs, varsity sports, pledging or joining a fraternity or sorority, becoming or remaining a member of residential staff and becoming or remaining an officer of a student organization.

Note: Students whose university transcripts reflect Probation II are strongly advised to verify with the Judicial Affairs Officer that the notation has been expunged at the predicted date, prior to requesting a transcript.

Suspension from the University

Suspension from the university requires a student to leave the university within forty-eight hours of notification if no appeal has been filed, or suspension begins on the date specified in the decision. If an appeal has been filed within forty-eight hours of notification, the suspension will not become effective until the appeal process is complete unless the university invokes an exception. Suspension may last for any specified period, and results in a permanent notation on a student's transcript. During suspension, a student is not in good standing and may not participate in any university activities, including study abroad programs. The student is not allowed to be on the university campus for any reason without permission from the Dean of Students or Judicial Affairs Officer, and may not transfer credit to Tufts for courses taken elsewhere during the suspension. A suspended student is eligible to return to the university at the end of the specified period, unless additional violations occur during the period of suspension.

Expulsion from the University

An expulsion is similar to suspension except that the student may not return to the university.

Disciplinary Charges Pending

In situations resulting in notation of disciplinary action on the transcript, the notation is posted following the initial decision. If an appeal is initiated, the notation will be changed to "Disciplinary Charges Pending" until the outcome of the appeal is known.

Withdrawal with Disciplinary Charges Pending

If a student withdraws after disciplinary charges have been filed against him or her or while disciplinary charges are pending against him or her, a permanent notation will be placed on the student's record stating, "Student withdrew with disciplinary charges pending." A student who leaves under these circumstances will not be eligible to return to the university.

Notations on Transcripts

Notations on university transcripts of suspension, expulsion, and "student withdrew with disciplinary charges pending" are permanent. Notations on university transcripts of Disciplinary Probation II remain for four years from the date of the incident.

Parental notification

Since the university views students as adults, parents and guardians are not normally notified by the university of every disciplinary difficulty. However, the university generally will attempt to inform a parent(s) or guardian(s) when students are found in violation of a second alcohol offense, or are placed on Disciplinary Probation II, or Deferred Residential Separation, or are separated from university housing or from the university. Students are encouraged to inform their parent(s) or guardian(s) about disciplinary difficulties, and to refer them to the Dean of Students Office if there are any questions.

In order to let a parent(s) or a guardian(s) be involved in a decision to appeal a serious disciplinary consequence, the university generally will attempt to inform a parent(s) or guardian(s) of a decision involving a serious disciplinary consequence at the time the consequence is initially imposed. Please note that all disciplinary actions will be disclosed to the named individuals where students have filed an authorization form to release student records.

SOME POSSIBLE CONSEQUENCES FOR VARIOUS DISCIPLINARY VIOLATIONS

Since every case is unique, the action determined to be appropriate for a particular violation may differ from that indicated in these summaries of consequences.

Note: Current community values are used to make assessments about the consequences.

Please remember that these summaries do not include all violations for which disciplinary action could result. Refer to the Code of Conduct in *The Pachyderm* and the booklet, *Academic Integrity@Tufts*.

You will see here broad categories of some violations within each consequence level. Some appear in more than one level, reflecting the uniqueness of each case and the judiciaries' consideration of such factors as intent, motivation, level of damage or harm caused, impact to the community, acceptance of responsibility or accountability, etc. When violations are motivated by bias, more serious consequences may be imposed. Multiple violations in the incident may also result in more serious consequences.

Expulsion

- ▶ Assault
- ▶ Rape or attempted rape
- ▶ Involvement in the manufacture or distribution of fraudulent identification cards
- ▶ Embezzlement from the university or university organizations
- ▶ Falsifying financial aid, employment, or other official documents
- ▶ Dealing or trafficking in controlled substances
- ▶ Further difficulty after return from suspension
- ▶ Vandalism
- ▶ Hazing

Suspension: One Year or Longer

- ▶ Assault
- ▶ Harassment
- ▶ Hazing
- ▶ Theft, including theft of services (e.g. internet, cable, television, etc.)
- ▶ Fraud
- ▶ Breaking and entering
- ▶ Violation of Probation Level II

Suspension: One Semester

- ▶ Assault

- ▶ Theft, including theft of services (e.g. internet, cable, television, etc.)
- ▶ Possession of controlled substances
- ▶ Providing alcohol to an individual under 21 Years of Age
- ▶ Violation of Probation II

Disciplinary Probation II

- ▶ Destruction of property
- ▶ Breaking and entering
- ▶ Perjury before a disciplinary panel or university official in a disciplinary case
- ▶ Harassment
- ▶ Fraud
- ▶ Violation of Probation I
- ▶ Possession of fraudulent ID or driver's license
- ▶ Possession of controlled substances

Disciplinary Probation I

- ▶ Rude and disorderly conduct
- ▶ Minor vandalism or graffiti
- ▶ Lack of cooperation with university officials
- ▶ Harassment
- ▶ Violation of policy on gatherings, demonstrations and disturbances
- ▶ Misuse of university or other I.D.
- ▶ Urinating in public
- ▶ Creating a disruption in the surrounding communities
- ▶ Second alcohol or other drug offense

Note: Probation I often includes other elements, such as community service.

**For a complete description of the policy on alcohol and other drugs, including consequences for violations please refer to *The Pachyderm*.

RESIDENTIAL CONSEQUENCES:

Separation from University Housing

- ▶ Fire and life safety violations
- ▶ Chronic or major hall vandalism
- ▶ Chronic inappropriate hall behavior
- ▶ Violation of residence hall probation
- ▶ Possession of weapons
- ▶ Chronic offenders of alcohol/drug policies

Warning

- ▶ Social policy violations
- ▶ Minor disregard for university policies
- ▶ Keg or party vessel violation (\$300 fine and, when applicable, notifications of the National Offices for Fraternities & Sororities)

Note: Warnings often include fines, work penalties or behavioral restrictions. As state and federal laws change, penalties for certain violations may become more significant than listed here.

SOME POSSIBLE CONSEQUENCES FOR ACADEMIC INTEGRITY VIOLATIONS AND COMPUTER RESOURCE POLICY VIOLATIONS* †

Expulsion or suspension

- ▶ Having another individual take an exam for you
- ▶ Falsifying academic documents or records
- ▶ Participating in the theft and/or unauthorized distribution of copyrighted materials
- ▶ Electronic intrusion into university computer systems (causing damage)
- ▶ Submitting other's work as your own

* These consequences are disciplinary outcomes. In an academic integrity case, the professor involved determines any grading consequences for demonstrated violations. Please note that warning or probationary status for academic integrity violations will remain in place through your graduation, with the exception of transcript notations as previously described in the this booklet.

† Computer resource violations that constitute other crimes, such as harassment, theft, etc., may appear in the Possible Consequences summary.

Disciplinary Probation II

- ▶ "Spamming" — electronic sabotage of another's equipment
- ▶ Sabotaging others' chances in a class: including making library materials unavailable, deleting computer files, etc.
- ▶ Submission of a stolen or forged medical pass (or other document) for a class absence
- ▶ Submitting an exam for re-grading after altering the original responses
- ▶ Cheating on an exam — bringing unauthorized materials into the exam room, copying from another student, etc.
- ▶ Forgery on an academic petition (with intent to obtain an unauthorized result)
- ▶ Running password or other privacy circumventing programs
- ▶ Electronic intrusion into university computing systems (causing no damage)
- ▶ Running copyrighted software without authorization
- ▶ Knowingly running restricted access (e.g. operator's) systems or programs
- ▶ Intentional copyright violation
- ▶ Intentional fair use or libel violations
- ▶ Violation of Probation I
- ▶ Plagiarism (with intent to deceive the instructor)

Disciplinary Probation I

- ▶ Plagiarism (no intent to deceive the instructor)
- ▶ Improper citing of source work
- ▶ Unauthorized collaboration with others
- ▶ Submitting one work for two or more courses without permission
- ▶ Forgery on an academic petition (couldn't find the required signatories)
- ▶ Providing another Individual (including family members) use of your computer or network password
- ▶ Various minor violations of the Information Technology Responsible Use Policy for Students in Arts, Sciences and Engineering

CAMPUS JUDICIARIES

The University community provides a variety of mechanisms for disciplinary hearings:

The Residential Judiciary

The Residential Judiciary is made up of two resident directors and three student residential judiciary board members and is convened by the Coordinator of Community Standards and Judicial Process. Cases heard by the Residential Judiciary include:

- ▶ Complaints brought by one or more residents against one or more other residents on alleged violations of residence hall standards or other personal complaint.
- ▶ Complaints against residents brought by members of the residential staff on violations of residence hall standards.
- ▶ Appeals of decisions made by resident directors or the Coordinator of Community Standards and Judicial Process.

The Residential Judiciary may impose disciplinary resolutions, including those that affect an individual's housing status or eligibility to reside in university housing. The Residential Judiciary Board may not impose university disciplinary action, but may refer cases to the University Judicial Affairs Officer if such action is seen as appropriate. The Residential Judiciary Board will hear cases stemming from incidents that occur in a residence hall even if the student involved does not reside in the hall.

The residence hall judicial system also includes an arbitration option that is available as a non-disciplinary mechanism to help resolve roommate and hall citizenship issues. Refer to the section on mediation in this booklet.

Appeals of decisions made by the Residential Judiciary may be brought to the Judicial Affairs Officer in the Dean of Students Office.

The Inter-Greek Council Judiciary

The IGC Judiciary, reached through the IGC Office in the Campus Center, is made up of student members of Tufts' fraternities and sororities, and may hear concerns about any of these organizations. Note that the complaining party has the alternative option of bringing the case to the Committee on Fraternities and Sororities. Action taken by the IGC Judiciary may include any consequence affecting a social Greek organization, including withdrawal of

recognition as a fraternity or sorority. The IGC Judiciary may not take action against individuals, but may refer cases to the Dean of Students Office if such action is seen as appropriate. Note: This Judiciary is only available if the IGC has established the mechanism in any particular year.

Appeals of decisions made by the IGC Judiciary may be brought to the Committee on Fraternities and Sororities.

The Committee on Fraternities and Sororities

The Committee on Fraternities and Sororities can hear complaints against fraternity or sorority organizations. The Committee can take action similar to that of the Inter-Greek Council Judiciary. The difference between the two judiciaries is primarily that the IGC Judiciary is made up entirely of students in the social Greek system. The Committee on Fraternities and Sororities is made up of university administrators and students—some are members of social Greek organizations; some are not. The choice of where to bring a complaint is that of the complaining party provided the IGC Judiciary is functioning.

The Dean of Arts and Sciences, or the Dean of Engineering, or their designees, hears appeals of decisions made by the Committee on Fraternities and Sororities.

The Tufts Community Union Judiciary

The TCU Judiciary Office, located in the Campus Center, is made up of students elected at large by the student body, and will hear concerns about compliance with the requirements and procedures of the Tufts Community Union Constitution. In this regard, complaints may be brought against individuals or student organizations. The TCU Judiciary may not impose university disciplinary action on individual students but may refer cases to the Dean of Students Office if such action is seen as appropriate.

Appeals of decisions made by the TCU Judiciary may be brought to the Committee on Student Life.

The Dean of Student Judiciary

The Dean of Students Judiciary is made up of three members of the Tufts administration or faculty and two student members of the TCU Judiciary. The administrative or faculty members are selected based on availability and expertise. The student members are selected by lottery from among the seven elected TCU Judiciary members. Parties involved in a hearing will not have an

opportunity to request specific panelists. The Dean's panels hear cases against individuals or groups of individuals (but not against student organizations). Dean of Students Judiciary panels are advisory in nature and cannot enforce penalties. The Dean of Students Office, however, relies upon the panel's determination of whether a violation has been established and is usually guided by the panel's recommendation for consequences if the recommendation is feasible and in accordance with disciplinary policy. Appeals of decisions made by the Dean of Students Judiciary may be brought to the Committee on Student Life.

The Committee on Student Life

The Committee on Student Life is composed of members of the faculty, appointed by the faculty of the College of Arts, Sciences and Engineering, by students elected at large by the student body, and by a representative of the Graduate Student Council. While not exclusively a disciplinary body, the Committee has jurisdiction over complaints against student organizations (except fraternities and sororities) and appeals of decisions made by the TCU Judiciary and the Dean of Students Judiciary or the Judicial Affairs Officer. The Committee does not take initial disciplinary action against individuals. It may impose any consequences seen as appropriate against student organizations. It may also refer charges against individuals to the Dean of Students Office.

The Committee will hear cases of alleged behavioral violations and/or those that involve allegations of violation of university, state or federal laws. The TCU Judiciary will hear cases that involve allegations of violations of the TCU constitution or by-laws. Appeals of such cases, however, will be heard by the Committee on Student Life.

Appeals of decisions made by the Committee on Student Life may be brought to the Dean of Arts and Sciences, the Dean of Engineering, or their designees.

Availability of Judiciaries

All of the judicial mechanisms described above are available during the fall and spring semesters, except as noted. At other times, judiciaries involving student panelists are usually not available. At such times, complaints and appeals may be heard by alternative bodies or, in appropriate circumstances, deferred until the next academic term. For example, the Dean of Students Judiciary would hear cases that would normally be judged by Residential Judiciaries. The Dean of Arts and Sciences, the Dean of Engineering, or their designees would judge cases that would normally be judged by the Committee on Student Life.

